

GOVERNMENT OF THE DISTRICT OF COLUMBIA
D.C. Office of Personnel

District Personnel Manual Issuance System

This Instruction should be filed behind
the divider for Part III of DPM
Chapter(s) 8, 9, 10, 36, & 38

DPM Instruction No. 8-46, 9-19, 10-5, 36-1, & 38-5

SUBJECT: Immigration Reform and Control Act: Employment
Eligibility Verification (Form I-9)

Date: November 18, 2002

NOTE: This instruction rescinds DPM Instruction No. 14-5, dated December 21, 2001; and supersedes DPM Instruction No. 8-45, 9-18, 10-4, & 38-4, dated November 8, 2002 (to clarify that the provisions in the instruction apply to new hires to positions in the Legal Service by adding Chapter 36 to the instruction number).

1. Purpose

The purpose of this instruction is to provide the revised Employee Eligibility Verification Form I-9 and update the procedures that must be followed in order to comply with the Immigration Reform and Control Act of 1986 (IRCA), as amended by the Immigration Act of 1990. The Act, as amended, requires employers to hire only citizens and nationals of the United States and aliens authorized to work and to verify the identity and employment eligibility of all employees hired after November 6, 1986. In accordance with the Immigration Act of 1990, employers cannot request that an employee present more or different documents than are required, nor can the employer refuse to honor documents that reasonably appear to be genuine and related to the person presenting them.

2. Background

The IRCA became law on November 6, 1986 and was amended in 1990. The IRCA, as amended, prohibits the employment of illegal aliens and enforces the prohibition through a system of record-keeping and employer sanctions administered by the U.S. Department of Justice, Immigration and Naturalization Service (INS).

3. Coverage

- a. All new hires of the District government, citizens and non-citizens, are required to complete a Form I-9, Employment Eligibility Verification (Attachment 1).
- b. The following individuals are not required to complete a Form I-9:
 - (1) Persons who provide contract services to an agency through an independent contractor.
 - (2) Persons who are independent contractors.

Note: DPM Instructions that are strictly procedural in nature have direct applicability only to agencies and employees under the personnel authority of the Mayor. Other personnel authorities or independent agencies may adopt any or all of these procedures or guidance materials for agencies and employees under their respective jurisdictions. [See DPM Chapter 2, Part II, Subpart I, § 1.3.].

Inquiries: Management Services Division, 442-9700

Distribution: Heads of Departments and Agencies, HR Advisors, and DPM Subscribers

Retain Until Superseded

4. Responsibilities

a. New hires

All new hires are required to complete section 1 of Form I-9 when they report for processing and to present original documents that establish their identity and employment eligibility.

b. Personnel offices

It is the responsibility of personnel offices to verify the identity and employment eligibility of all new hires (with an entrance-on-duty date of November 7, 1986 or later). In order to fulfill the requirements of the IRCA, these steps should be followed:

(1) All new hires

- (a) Notify all appointees/selectees of the requirement to provide, when they report for processing, but not later than 3 business days of the date employment begins, a document or documents which establish their identity and eligibility to work. A list of acceptable documents is attached (Attachment 1).
- (b) Request all new hires to complete section 1 of the Form I-9 during entrance-on-duty processing, but not later than 3 business days after the effective date of employment. Examine that portion of the Form I-9 to ensure that it is legible, properly completed, and bears a signature. If an employee needs help in completing the form, the person who provides assistance is required to fill in the section of the form for "Preparer/Translator Certification."
- (c) Any new hire under age 18 who is unable to produce an identity document (List A or B) may be exempt from producing one if:
 - (i) A parent or legal guardian completes section 1 and writes in the space for the minor's signature the words, "minor under age 18;" and
 - (ii) The parent or legal guardian completes the "Preparer/Translator Certification."
 - (iii) The employee is still required to produce a List C document showing employment eligibility. After review of the form and the document submitted, the words, "minor under age 18" are to be written in Section 2, under List B in the space after the words "Document #," and the employment document information shall be recorded, as appropriate, under List C.
- (d) Examine the original documents provided by employees to establish their identity and employment eligibility and complete Section 2 of the Form I-9. Some documents establish both identity and employment eligibility (List A). Other documents establish identity only (List B) or employment eligibility (List C).
- (e) Documents should reasonably appear to be genuine and relate to the individual, or they should not be accepted. Further, work authorization documents that carry restrictions or limitations should be noted and those conditions observed. Check the box(es) on the

Form I-9 that correspond(s) to the document(s), and fill in the document number and expiration date. Make a copy of the documents presented and attach the copies to the Form I-9.

- (f) If an employee is unable to provide the required document(s) within 3 days of hire, a receipt showing that he or she has applied for the document(s) must be presented by the employee prior to the end of the 3-day period. The document title, the word “receipt” and any document number should be recorded in Section 2 of the Form I-9 in the “Document #” space. The employee must present the actual document(s) within 90 days of the effective date of employment, at which time the Form I-9 is to be updated by crossing out the previous entry and inserting the document number from the actual document presented, and initialing and dating the change. A copy of the document is to be made and attached to the Form I-9.
- (g) The person who reviews the documents will complete the certification portion of the Form I-9.

(2) Re-verification of Employment Authorization

Prior to the expiration of the employee’s employment authorization, the I-9 must be re-verified. The employee must present a document that shows either an extension of the initial employment authorization or a new work authorization:

- (a) If the employee completed the previous edition of the Form I-9, the re-verification must be accomplished directly on the form by crossing out the old information and initialing the change.
- (b) If the employee completed the revised November 21, 1991 edition of the Form I-9 at the time of employment, the re-verification is accomplished by the completion of Section 3 of the form.

(3) Retention of records

- (a) Retain completed Form I-9s and copies of the document(s) presented in a **separate Form I-9 folder**. These documents are to be kept for 3 years after the date of hire or 1 year after the date employment ends, whichever is later.
- (b) Make the Form I-9 available for inspection to an authorized official of the INS or the Department of Labor (DOL) upon request.

5. Anti-Discrimination Provisions

- a. The IRCA prohibits discrimination in employment against any individual (other than an alien not authorized to work in the U.S.) because of that individual's national origin or citizenship status. **Discrimination charges can be avoided by applying the verification procedures of the Act to all newly hired employees and by hiring without respect to the national origin or citizenship status of those authorized to work in the United States. Consequently, identity and employment eligibility documents should be requested from all new hires.**

- b. Discrimination charges may be filed either by persons who believe they were discriminated against in employment on the basis of national origin or citizenship status (or by a person on their behalf), or by INS officials who have reason to believe that discrimination has occurred. Employers found to have engaged in discriminatory practices may be ordered to hire or reinstate individuals directly injured by the discrimination, with back pay, or pay substantial fines.

6. Penalties for Prohibited Practices

- a. The IRCA, as amended, imposes employer sanction penalties for knowingly hiring any alien not authorized to work in the United States or failing to comply with record-keeping requirements. If the INS makes a determination that the law has been violated with respect to employees hired after November 6, 1986, civil and/or criminal penalties may be imposed.

7. Forms

The Form I-9 may be photocopied or reprinted. Additional copies may also be ordered directly from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 or the form can be downloaded at <http://www.ins.gov>. In addition, the INS Handbook for employees, M-274, can be downloaded.

Judy D. Banks
Interim Director of Personnel

Attachment 1: Employment Eligibility Verification, Form I-9 (Rev. 11-21-91)

Employment Eligibility Verification

INSTRUCTIONS

PLEASE READ ALL INSTRUCTIONS CAREFULLY BEFORE COMPLETING THIS FORM.

Anti-Discrimination Notice. It is illegal to discriminate against any individual (other than an alien not authorized to work in the U.S.) in hiring, discharging, or recruiting or referring for a fee because of that individual's national origin or citizenship status. It is illegal to discriminate against work eligible individuals. Employers **CANNOT** specify which document(s) they will accept from an employee. The refusal to hire an individual because of a future expiration date may also constitute illegal discrimination.

Section 1 - Employee. All employees, citizens and noncitizens, hired after November 6, 1986, must complete Section 1 of this form at the time of hire, which is the actual beginning of employment. **The employer is responsible for ensuring that Section 1 is timely and properly completed.**

Preparer/Translator Certification. The Preparer/Translator Certification must be completed if Section 1 is prepared by a person other than the employee. A preparer/translator may be used only when the employee is unable to complete Section 1 on his/her own. However, the employee must still sign Section 1.

Section 2 - Employer. For the purpose of completing this form, the term "employer" includes those recruiters and referrers for a fee who are agricultural associations, agricultural employers or farm labor contractors.

Employers must complete Section 2 by examining evidence of identity and employment eligibility within three (3) business days of the date employment begins. If employees are authorized to work, but are unable to present the required document(s) within three business days, they must present a receipt for the application of the document(s) within three business days and the actual document(s) within ninety (90) days. However, if employers hire individuals for a duration of less than three business days, Section 2 must be completed at the time employment begins. **Employers must record: 1) document title; 2) issuing authority; 3) document number, 4) expiration date, if any; and 5) the date employment begins.** Employers must sign and date the certification. Employees must present original documents. Employers may, but are not required to, photocopy the document(s) presented. These photocopies may only be used for the verification process and must be retained with the I-9. **However, employers are still responsible for completing the I-9.**

Section 3 - Updating and Reverification. Employers must complete Section 3 when updating and/or reverifying the I-9. Employers must reverify employment eligibility of their employees on or before the expiration date recorded in Section 1. Employers **CANNOT** specify which document(s) they will accept from an employee.

- If an employee's name has changed at the time this form is being updated/ reverified, complete Block A.
- If an employee is rehired within three (3) years of the date this form was originally completed and the employee is still eligible to be employed on the same basis as previously indicated on this form (updating), complete Block B and the signature block.

- If an employee is rehired within three (3) years of the date this form was originally completed and the employee's work authorization has expired or if a current employee's work authorization is about to expire (reverification), complete Block B and:
 - examine any document that reflects that the employee is authorized to work in the U.S. (see List A or C),
 - record the document title, document number and expiration date (if any) in Block C, and complete the signature block.

Photocopying and Retaining Form I-9. A blank I-9 may be reproduced, provided both sides are copied. The Instructions must be available to all employees completing this form. Employers must retain completed I-9s for three (3) years after the date of hire or one (1) year after the date employment ends, whichever is later.

For more detailed information, you may refer to the INS Handbook for Employers, (Form M-274). You may obtain the handbook at your local INS office.

Privacy Act Notice. The authority for collecting this information is the Immigration Reform and Control Act of 1986, Pub. L. 99-603 (8 USC 1324a).

This information is for employers to verify the eligibility of individuals for employment to preclude the unlawful hiring, or recruiting or referring for a fee, of aliens who are not authorized to work in the United States.

This information will be used by employers as a record of their basis for determining eligibility of an employee to work in the United States. The form will be kept by the employer and made available for inspection by officials of the U.S. Immigration and Naturalization Service, the Department of Labor and the Office of Special Counsel for Immigration Related Unfair Employment Practices.

Submission of the information required in this form is voluntary. However, an individual may not begin employment unless this form is completed, since employers are subject to civil or criminal penalties if they do not comply with the Immigration Reform and Control Act of 1986.

Reporting Burden. We try to create forms and instructions that are accurate, can be easily understood and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. Accordingly, the reporting burden for this collection of information is computed as follows: 1) learning about this form, 5 minutes; 2) completing the form, 5 minutes; and 3) assembling and filing (recordkeeping) the form, 5 minutes, for an average of 15 minutes per response. If you have comments regarding the accuracy of this burden estimate, or suggestions for making this form simpler, you can write to the Immigration and Naturalization Service, HQPDI, 425 I Street, N.W., Room 4034, Washington, DC 20536. OMB No. 1115-0136.

**EMPLOYERS MUST RETAIN COMPLETED FORM I-9
PLEASE DO NOT MAIL COMPLETED FORM I-9 TO INS**

Form I-9 (Rev. 11-21-91)N

Employment Eligibility Verification

Please read instructions carefully before completing this form. The instructions must be available during completion of this form. **ANTI-DISCRIMINATION NOTICE:** It is illegal to discriminate against work eligible individuals. Employers **CANNOT** specify which document(s) they will accept from an employee. The refusal to hire an individual because of a future expiration date may also constitute illegal discrimination.

Section 1. Employee Information and Verification. To be completed and signed by employee at the time employment begins.

| | | | |
|---|-------|--|--------------------------------|
| Print Name: Last | First | Middle Initial | Maiden Name |
| Address (Street Name and Number) | | Apt. # | Date of Birth (month/day/year) |
| City | State | Zip Code | Social Security # |
| I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form. | | I attest, under penalty of perjury, that I am (check one of the following): | |
| | | <input type="checkbox"/> A citizen or national of the United States <input type="checkbox"/> A Lawful Permanent Resident (Alien # A _____) <input type="checkbox"/> An alien authorized to work until ____/____/____ (Alien # or Admission #) _____ | |
| Employee's Signature | | | Date (month/day/year) |

Preparer and/or Translator Certification. (To be completed and signed if Section 1 is prepared by a person other than the employee.) I attest, under penalty of perjury, that I have assisted in the completion of this form and that to the best of my knowledge the information is true and correct.

| | |
|---|------------|
| Preparer's/Translator's Signature | Print Name |
| Address (Street Name and Number, City, State, Zip Code) | |
| Date (month/day/year) | |

Section 2. Employer Review and Verification. To be completed and signed by employer. Examine one document from List A OR examine one document from List B and one from List C, as listed on the reverse of this form, and record the title, number and expiration date, if any, of the document(s)

| List A | OR | List B | AND | List C |
|--|----|----------------|-----|----------------|
| Document title: _____ | | _____ | | _____ |
| Issuing authority: _____ | | _____ | | _____ |
| Document #: _____ | | _____ | | _____ |
| Expiration Date (if any): ____/____/____ | | ____/____/____ | | ____/____/____ |
| Document #: _____ | | _____ | | _____ |
| Expiration Date (if any): ____/____/____ | | | | |

CERTIFICATION - I attest, under penalty of perjury, that I have examined the document(s) presented by the above-named employee, that the above-listed document(s) appear to be genuine and to relate to the employee named, that the employee began employment on (month/day/year) ____/____/____ and that to the best of my knowledge the employee is eligible to work in the United States. (State employment agencies may omit the date the employee began employment.)

| | | |
|--|---|-----------------------|
| Signature of Employer or Authorized Representative | Print Name | Title |
| Business or Organization Name | Address (Street Name and Number, City, State, Zip Code) | |
| | | Date (month/day/year) |

Section 3. Updating and Reverification. To be completed and signed by employer.

| | |
|--|--|
| A. New Name (if applicable) | B. Date of rehire (month/day/year) (if applicable) |
| C. If employee's previous grant of work authorization has expired, provide the information below for the document that establishes current employment eligibility. | |
| Document Title: _____ Document #: _____ Expiration Date (if any): ____/____/____ | |
| I attest, under penalty of perjury, that to the best of my knowledge, this employee is eligible to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual. | |
| Signature of Employer or Authorized Representative | Date (month/day/year) |

LISTS OF ACCEPTABLE DOCUMENTS

| LIST A | | LIST B | | LIST C |
|---|----|--|-----|--|
| Documents that Establish Both Identity and Employment Eligibility | OR | Documents that Establish Identity | AND | Documents that Establish Employment Eligibility |
| 1. U.S. Passport (unexpired or expired) | | 1. Driver's license or ID card issued by a state or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, gender, height, eye color and address | | 1. U.S. social security card issued by the Social Security Administration (<i>other than a card stating it is not valid for employment</i>) |
| 2. Certificate of U.S. Citizenship (<i>INS Form N-560 or N-561</i>) | | 2. ID card issued by federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color and address | | 2. Certification of Birth Abroad issued by the Department of State (<i>Form FS-545 or Form DS-1350</i>) |
| 3. Certificate of Naturalization (<i>INS Form N-550 or N-570</i>) | | 3. School ID card with a photograph | | 3. Original or certified copy of a birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal |
| 4. Unexpired foreign passport, with <i>I-551 stamp</i> or attached <i>INS Form I-94</i> indicating unexpired employment authorization | | 4. Voter's registration card | | 4. Native American tribal document |
| 5. Permanent Resident Card or Alien Registration Receipt Card with photograph (<i>INS Form I-151 or I-551</i>) | | 5. U.S. Military card or draft record | | 5. U.S. Citizen ID Card (<i>INS Form I-197</i>) |
| 6. Unexpired Temporary Resident Card (<i>INS Form I-688</i>) | | 6. Military dependent's ID card | | 6. ID Card for use of Resident Citizen in the United States (<i>INS Form I-179</i>) |
| 7. Unexpired Employment Authorization Card (<i>INS Form I-688A</i>) | | 7. U.S. Coast Guard Merchant Mariner Card | | 7. Unexpired employment authorization document issued by the INS (<i>other than those listed under List A</i>) |
| 8. Unexpired Reentry Permit (<i>INS Form I-327</i>) | | 8. Native American tribal document | | |
| 9. Unexpired Refugee Travel Document (<i>INS Form I-571</i>) | | 9. Driver's license issued by a Canadian government authority | | |
| 10. Unexpired Employment Authorization Document issued by the INS which contains a photograph (<i>INS Form I-688B</i>) | | For persons under age 18 who are unable to present a document listed above: | | |
| | | 10. School record or report card | | |
| | | 11. Clinic, doctor or hospital record | | |
| | | 12. Day-care or nursery school record | | |

Illustrations of many of these documents appear in Part 8 of the Handbook for Employers (M-274)